IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

C.M.No.4427-CII of 2007 and
C.R.No.1030 of 2007
DATE OF ORDER: 13.3.2007

Nazir Mohamad

...Petitioner(s)

Versus

Oriental Insurance Co through its Manager

....Respondent(s)

CORUM : HON'BLE MR. JUSTICE M.M. AGGARWAL

.*.*.*.

Present: Mr. Y.S. Saini, Advocate.

M.M. AGGARWAL,J

C.M.No.4427-CII of 2007

Application is allowed. Documents are taken on record.

C.R.No.1030 of 2007

This is petition against order dated 6.1.2007 passed by Motor Accident Claims Tribunal, Panchkula.

Counsel for the petitioner argues from para No.7 of the award that the vehicle was owned by Kuldeep Singh and not by the present petitioner.

From the perusal of the award, it would come out that the claim petition was filed as against Megh Raj as driver, Nazir Mohammad, present petitioner as owner of the truck and Oriental Insurance Company respondent No.3 as insurer of the truck.

It is argued that even when it was known that Kuldeep Singh was owner of the vehicle and he had taken insurance, still Kuldeep Singh was not made party. As per the terms of the award, Insurance Company had been held entitled to make recovery of the awarded amount after making payment to the claimants.

Award is stated to have been satisfied by the Insurance

Company. However, now Insurance Company by filing execution application is effecting recovery in which present petitioner Nazir Mohamad had filed objections, which had been dismissed.

Counsel for the petitioner argues that in fact Kuldeep Singh is liable to reimburse the Insurance Company and not the present petitioner.

Nazir Mohammad had, in fact, filed application for amendment in the written statement, which was not filed at the time of hearing main claim in the petition. That petition has already been decided and no amendment could be allowed by the Executing Court. Moreover, the present petitioner Nazir Mohammad did not file any appeal against the award showing that he was not liable and Kuldeep Singh was liable to reimburse the Insurance Company.

I do not find any merit in this petition and the same is dismissed leaving the petitioner to take all the pleas before the Executing Court, if the law so permits.

March 13, 2007 (M.M. AGGARWAL)
manoj JUDGE